

Message Text

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ACTION AF-08

INFO OCT-01 EUR-12 ISO-00 CIAE-00 DODE-00 PM-04 H-02

INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15

USIA-06 IO-13 /080 W

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R 160910Z OCT 76

FM AMEMBASSY LUSAKA

TO SECSTATE WASHDC 4291

INFO AMEMBASSY DAR ES SALAAM

AMEMBASSY GABORONE

AMEMBASSY LONDON

AMEMBASSY MAPUTO

AMEMBASSY PRETORIA

C O N F I D E N T I A L LUSAKA 2785

E.O. 11652: GDS

TAGS: PINT PFOR ZA WA TZ

SUBJ: GRZ FAILS TO PRODUCE SHIPANGA IN RESPONSE TO SUPREME
COURT ORDER

REF: (A) LUSAKA 2721; (B) STATE 254553

1. ON OCT 14, THE DATE SET BY THE ZAMBIAN SUPREME
COURT FOR THE GRZ TO PRODUCE SWAPO DISSIDENT ANDREAS
SHIPANGA (REFTEL A), GRZ LEGAL AFFAIRS MINISTER MAINZA
CHONA APPEARED BEFORE THE COURT TO EXPLAIN WHY GRZ IS
UNABLE TO COMPLY WITH COURT'S ORDER.

2. CHONA SAID THAT SWAPO REFUSED TO RELEASE SHIPANGA
IN DEFIANCE OF OCT 5 COURT ORDER. CHONA PRESENTED TO
THE COURT AN AFFIDAVIT PREPARED BY GRZ FOREIGN AFFAIRS
PERMANENT SECRETARY PUTTEHO NGONDA. ACCORDING TO
THIS DOCUMENT, GRZ HAD "THROWN OUT FEELERS" TO THE
TANZANIAN HIGH COMMISSION, LUSAKA, TO DETERMINE
WHETHER A FORMAL REQUEST TO RELEASE SHIPANGA SHOULD
BE MADE. THIS WAS OF NO AVAIL. AFFIDAVIT ARGUED
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THAT, IF THE GRZ PUSHED TANZANIA FOR SHIPANGA RELEASE,

THIS COULD BE REGARDED BY TANZANIAN GOVT AS A HOSTILE
AND MISCHIEVOUS REQUEST.

3. CHONA PLEADED THAT THE COURT SHOULD PUT ITSELF
IN GRZ'S POSITION AT THE TIME THE APPELLANT (SHIPANGA)
LEFT ZAMBIA. HE CLAIMED THAT THE COURT HAD NEVER RULED
SHIPANGA WAS BEING HELD BY THE GRZ AT THE TIME HE WAS
DESPATCHED TO TANZANIA. ZAMBIAN OFFICERS AROUND THE
CAMP IN ZAMBIA WHERE SHIPANGA WAS LOCATED WERE ACTING
AS AGENTS OF SWAPO, NOT AS REPRESENTATIVES OF THE GRZ.
SINCE SHIPANGA WAS NOT IN DETENTION UNDER THE LAWS OF
ZAMBIA, OR BEING HELD BY THE GRZ, WHILE HE WAS IN ZAMBIA,
A WRIT OF HABEAS CORPUS DID NOT APPLY.

4. COMMENT: THE EMBASSY CONTINUES TO BELIEVE THAT
THE GRZ IS UNLIKELY TO PRODUCE SHIPANGA WITHOUT SWAPO'S
CONCURRENCE. HOWEVER, WHILE GRZ IS WILLING TO GO ALONG
WITH SWAPO TO THE EXTENT OF ABETTING HIS DETENTION IN
TANZANIA, IT IS LIKELY THAT THE GRZ WOULD USE WHATEVER
INFLUENCE IT COULD BRING TO BEAR TO DISSUADE SWAPO
FROM EXECUTING SHIPANGA AND OTHER DETAINEES.
THE PRICE OF HAVING ANOTHER CHITEPO AFFAIR ON ITS
HANDS, OR BEING LINKED DIRECTLY WITH SUCH AN
EMBARRASSMENT, IS ONE THE GRZ IS UNWILLING TO PAY.
LOW

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: EXTRADITION AGREEMENTS, LIBERATION FRONTS, COURT PROCEEDINGS
Control Number: n/a
Copy: SINGLE
Draft Date: 16 OCT 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: coburnhl
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976LUSAKA02785
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760389-0592
From: LUSAKA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19761045/aaaabmja.tel
Line Count: 86
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION AF
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 76 LUSAKA 2721, 76 STATE 254553
Review Action: RELEASED, APPROVED
Review Authority: coburnhl
Review Comment: n/a
Review Content Flags:
Review Date: 19 MAY 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <19 MAY 2004 by MartinML>; APPROVED <10 SEP 2004 by coburnhl>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: GRZ FAILS TO PRODUCE SHIPANGA IN RESPONSE TO SUPREME COURT ORDER
TAGS: PINT, PFOR, ZA, WA, TZ, SWAPO, (SHIPANGA, ANDREAS)
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006